

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS**

BUSH SEISMIC TECHNOLOGIES, LLC,

Plaintiff,

v.

SIGMA CUBED INC.,

Defendant.

Civil Action No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Bush Seismic Technologies, LLC (“Bush Seismic” or “Plaintiff”), for its Complaint against Defendant Sigma Cubed, referred to as (“Sigma Cubed” or “Defendant”), alleges the following:

NATURE OF THE ACTION

1. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*

THE PARTIES

2. Plaintiff Bush Seismic Technologies, LLC is a limited liability company organized under the laws of the State of Texas.

3. Upon information and belief, Sigma Cubed Inc. is a corporation organized and existing under the laws of Delaware, with a place of business at 4700 W. Sam Houston Pkwy., Suite 150, Houston, TX 77041 and a registered agent for service of process at CT Corporation System, 1999 Bryan St., Suite 900, Dallas, TX 75201. Upon information and belief, Sigma Cubed sells and offers to sell products and services throughout the United States, including in this judicial district, and introduces products and services that perform infringing processes

into the stream of commerce knowing that they would be sold in this judicial district and elsewhere in the United States.

JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code.

5. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

6. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(c) and 1400(b).

7. Upon information and belief, Sigma Cubed conducts substantial business in this forum, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals in Texas.

THE PATENTS IN SUIT

8. On May 22, 2001, U.S. Patent No. 6,236,942 (“the ’942 patent”), entitled “System and Method for Delineating Spatially Dependent Objects, Such as Hydrocarbon Accumulations from Seismic Data,” was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the ’942 patent is attached as Exhibit A.

9. On June 25, 2002, U.S. Patent No. 6,411,903 (“the ’903 patent”), entitled “System and Method for Delineating Spatially Dependent Objects, Such as Hydrocarbon Accumulations from Seismic Data,” was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the ’903 patent is attached as Exhibit B.

10. Bush Seismic is the assignee and owner of the right, title and interest in and to the above-referenced patents, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 6,236,942

11. The allegations set forth in the foregoing paragraphs 1 through 10 are incorporated into this First Claim for Relief.

12. Upon information and belief, Sigma Cubed has and continues to directly infringe one or more claims of the '942 patent by making, using, selling, importing and/or providing and causing to be used products and services embodied by one or more claims of the '942 patent, including the use of neural networks or other claimed specialized computer technologies in the exploration of oil and gas and/or minerals, which products and services, by way of example, include Sigma Cubed's Continuous Fracture Modeling workflow (the "Accused Instrumentalities").

13. Sigma Cubed was made aware of the '942 patent and its infringement thereof at least as early as its receipt of correspondence from Bush Seismic providing notice of the '942 patent and Sigma Cubed's infringement thereof sent to Sigma Cubed on December 29, 2014. The letter was sent by Federal Express. Bush Seismic has since received confirmation of delivery, indicating that Defendant has received the letter.

14. Upon information and belief, since at least the time it received notice, Sigma Cubed has induced and continues to induce others to infringe at least one claim of the '942 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including but not limited to Sigma Cubed's partners and customers, whose use of the Accused Instrumentalities constitutes direct infringement of at least one claim of the '942 patent.

15. In particular, Sigma Cubed's actions that aid and abet others such as its partners and customers to infringe include advertising and distributing the Accused Instrumentalities and providing instruction materials, training, and services regarding the Accused Instrumentalities.

On information and belief, Sigma Cubed has engaged in such actions with specific intent to cause infringement or with willful blindness to the resulting infringement because Sigma Cubed has had actual knowledge of the '942 patent and that its acts were inducing infringement of the '942 patent since at least the date Sigma Cubed received notice that such activities infringed the '942 patent.

16. Despite Bush Seismic's notice to Sigma Cubed regarding the '942 patent, Sigma Cubed has continued to infringe the '942 patent. On information and belief, Sigma Cubed's infringement has been and continues to be willful.

17. Bush Seismic has been harmed by Sigma Cubed's infringing activities.

COUNT II – INFRINGEMENT OF U.S. PATENT NO. 6,411,903

18. The allegations set forth in the foregoing paragraphs 1 through 17 are incorporated into this Second Claim for Relief.

19. Upon information and belief, Sigma Cubed has and continues to directly infringe one or more claims of the '903 patent by making, using, selling, importing and/or providing and causing to be used products and services embodied by one or more claims of the '903 patent, including the use of neural networks or other claimed specialized computer technologies in the exploration of oil and gas and/or minerals, which products and services, by way of example, include Sigma Cubed's Continuous Fracture Modeling workflow (the "Accused Instrumentalities").

20. Sigma Cubed was made aware of the '903 patent and its infringement thereof at least as early as its receipt of correspondence from Bush Seismic providing notice of the '903 patent and Sigma Cubed's infringement thereof sent to Sigma Cubed on December 29, 2014. The letter was sent by Federal Express. Bush Seismic has since received confirmation of delivery, indicating that Defendant has received the letter.

21. Upon information and belief, since at least the time it received notice, Sigma Cubed has induced and continues to induce others to infringe at least one claim of the '903 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including but not limited to Sigma Cubed's partners and customers, whose use of the Accused Instrumentalities constitutes direct infringement of at least one claim of the '903 patent.

22. In particular, Sigma Cubed's actions that aid and abet others such as its partners and customers to infringe include advertising and distributing the Accused Instrumentalities and providing instruction materials, training, and services regarding the Accused Instrumentalities. On information and belief, Sigma Cubed has engaged in such actions with specific intent to cause infringement or with willful blindness to the resulting infringement because Sigma Cubed has had actual knowledge of the '903 patent and that its acts were inducing infringement of the '903 patent since at least the date Sigma Cubed received notice that such activities infringed the '903 patent.

23. Despite Bush Seismic's notice to Sigma Cubed regarding the '903 patent, Sigma Cubed has continued to infringe the '903 patent. On information and belief, Sigma Cubed's infringement has been and continues to be willful.

24. Bush Seismic has been harmed by Sigma Cubed's infringing activities.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Bush Seismic demands a trial by jury on all issues triable as such.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Bush Seismic Technologies, LLC demands judgment for itself and against Defendants as follows:

- A. An adjudication that Defendant has infringed the '942 and '903 patents;
- B. An award of damages to be paid by Sigma Cubed adequate to compensate Bush Seismic for Sigma Cubed's past infringement of the '942 and '903 patents, and any continuing or future infringement through the date such judgment is entered, including interest, costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;
- C. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of Plaintiff's reasonable attorneys' fees; and
- D. An award to Bush Seismic of such further relief at law or in equity as the Court deems just and proper.

Dated: May 22, 2015

DEVLIN LAW FIRM LLC

/s/ Robert Kiddie

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